

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 6877

BILL NUMBER: SB 293

DATE PREPARED: Mar 12, 2002

BILL AMENDED: Mar 11, 2002

SUBJECT: Battery by Body Waste.

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FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) The bill makes it battery by body waste, a Class A misdemeanor, for a person to place body waste on another person, and it makes it malicious mischief, a Class B misdemeanor, for a person to place body waste where there is a risk that another person will come into contact with the waste. The bill also makes it malicious mischief with food, a Class A misdemeanor, for a person to place body waste in a location that another person will ingest the body waste. The bill also establishes enhanced penalties if the waste is infected with disease and permits a trial court to order restitution for the costs of testing to determine whether a victim has become infected as a result of the crime.

Effective Date: July 1, 2002.

Explanation of State Expenditures: (Revised) The bill establishes the crimes of battery by body waste when a person places body waste on another person and malicious mischief with food when a person places body waste in a location that another person will ingest the body waste, a Class A misdemeanor. It also establishes malicious mischief when a person places body waste in a location where there is substantial risk to another person, a Class B misdemeanor. All of these offenses would be subject to the following enhanced penalties:

- 1) a Class D felony if the offender knew or recklessly did not know that the body waste was infected with hepatitis B, HIV, or tuberculosis;
- 2) a Class C felony if the offender knew or recklessly did not know that the body waste was infected with hepatitis B or tuberculosis and the victim became infected; or
- 3) a Class B felony if the offender knew or recklessly did not know that the body waste was infected with HIV and the victim became infected.

Depending upon mitigating and aggravating circumstances, a Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, and a Class C felony is punishable by a prison term ranging from 2 to 8 years, and a Class B felony is punishable by a prison term

ranging from 6 to 20 years. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months, for all Class C felony offenders is approximately two years, and for all Class B felony offenders is approximately 3.7 years.

The average expenditure to house an adult offender was \$22,131 in FY 2000. Individual facility expenditures ranged from \$16,442 to \$40,312 per prisoner. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner.

Explanation of State Revenues: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for the various misdemeanors and felonies included in this bill are a \$5,000 for a Class A misdemeanor, \$1,000 for a Class B misdemeanor, and \$10,000 for a Class D, C or B felony. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: A Class A misdemeanor is punishable by up to one year in jail, and a Class B misdemeanor is punishable by up to 180 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44. If more defendants are detained in county jails prior to their court hearings for a Class D, C, or B felony, local expenditures for jail operations may increase.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs Association, Department of Correction.